

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of

George M. HALOW and Louis E. ZUNIGA

Serial No: 10/042,236

Group Art Unit: 2166

Filed : January 11, 2002

For : MEDICAL BILLING SYSTEM TO
PREVENT FRAUD

Received

APR 10 2002

Technology Center 2100

PETITION TO MAKE SPECIAL
UNDER MPEP § 708.02

Commissioner of Patents and Trademarks
Washington, DC 20231

ATTN: Group Director

Sir:

Applicant hereby petitions to make this pending application, which has not received any examination by the Examiner, special. All of the claims in this application are directed to a single species. If the Office determines that all the claims presented are not obviously directed to a single invention, the applicant will make an election without traverse as a prerequisite to the grant of special, accelerated examination status.

A search has been made by the undersigned attorney in the following subclasses:

Class 705, subclasses 2, 3 and 4.

There are submitted herewith a copy of the references deemed most closely related to the subject matter encompassed by the claims. It is noted that these references were cited in the Information Disclosure Statement filed contemporaneously with the filing of the above-noted patent application.

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There is submitted herewith a detailed discussion of the references, which discussion particular points out how the claimed subject matter is distinguishable over the references.

The fee required by 37 CFR § 1.17(i) of \$130.00 is enclosed herewith. Please charge any additional fees or credit any overpayment to our Deposit Account 08-2455.

Respectfully submitted,

by 

Mitchell B. Wasson, Reg. 27,408

April 9, 2002

HOFFMAN, WASSON & GITLER, PC
2361 Jefferson Davis Highway
Suite 522
Arlington, VA 22202
(703) 415-0100

Attorney's Docket: A-7709.PMS/lat

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DETAILED DISCUSSION OF REFERENCES

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Sir:

The present patent application recites a total of 21 claims, including independent claims 1 and 13. Claims 1-12 are directed to a system for reviewing medical treatment claims provided by a plurality of practitioners to a plurality of insurance entities. All of these claims either directly, or indirectly, include a clearinghouse for receiving information from the plurality of practitioners regarding claims to be paid by one or more of the plurality of insurance entities. The clearinghouse contains software for determining the appropriateness of each of the claims. The clearinghouse would communicate with the plurality of insurance entities and the plurality of practitioners regarding the appropriateness of each of the claims. Claim 3 is dependent from claim 1 and recites a system in which software determines the appropriateness of each of the claims based upon whether one of the practitioners has submitted more than one treatment claim for a single treatment period of time. Claim 4 depends from claim 1 and recites a system in which the software determines the appropriateness of each of the claims based on the total number of claim hours submitted by one of the practitioners for a particular duration of time.

Claims 13-21 are directed to a method of determining the appropriateness of a treatment claim submitted by one of a plurality of practitioners to one of a plurality of insurance entities based upon a particular diagnosis or condition. Each of the methods claims either directly, or indirectly, includes the step of establishing a clearinghouse for examining each of the treatment claims and communicating with the appropriate practitioner and the appropriate insurance entity the appropriateness of each of the treatment claims.

Claim 16 recites a method including the step of determining whether one of the practitioners has submitted more than one treatment claim for a single treatment period of time.

Claim 17 recites a method including the step of determining the appropriateness of each treatment claim based upon the total number of claim hours submitted for a particular duration of time.

The following references were deemed to be relevant to the present invention:

4,858,121	Barber et al
4,987,538	Johnson et al
5,235,702	Miller
5,253,164	Holloway et al
5,359,509	Little et al
5,519,607	Tawil
5,845,254	Lockwood et al
5,930,759	Moore et al
5,933,809	Hunt et al
6,078,890	Mangin et al
6,088,677	Spurgeon
6,208,973	Boyer et al
6,263,186	Pendleton, Jr.

The patent to Pendleton, Jr. describes a method and apparatus for detecting potentially fraudulent suppliers or providers of medical goods or services. A neural network is used including software for determining the existence of fraud after medical billing information is analyzed. A storage device includes a claims data file for storing information relating to a plurality of claims submitted for payment by a selected supplier or provider.

The storage device may also include a statistics file for storing statistical information relating to a selected supplier or provider and a program for producing a statistical screening file from data contained in the neural network database and the statistics file. Although the patent to Pendleton, Jr. generally describes a method and apparatus for analyzing a supplier or provider to determine fraud, it does not establish a clearinghouse between a plurality of practitioners and a plurality of insurance entities for the determination of the appropriateness of medical treatment claims. The patent to Pendleton, Jr. also does not anticipate or render obvious a system or method in which a claim is denied based upon whether more than one treatment claim for a single treatment period of time has been submitted by a single practitioner. This patent also does not anticipate or suggest a method or system in which each of the claims is deemed to be appropriate based upon the total number of claim hours submitted by one of the practitioners for a particular duration of time.

The patent to Holloway et al illustrates a system and method for detecting fraudulent medical claims via the examination of service codes. Generally, a user will enter into a computer system a description of the medical claims for which reimbursement or payment is requested or the codes associated with such claims, or both. A history database, as well as a knowledge base interpreter, and a knowledge base, are provided to determine whether fraudulent claims are being made. However, similar to the patent to Pendleton, Jr., the patent to Holloway et al does not focus on the issue of whether a single provider is claiming to have conducted different procedures at the same time. Similarly, the patent to Holloway et al does not anticipate or suggest establishing a clearinghouse between a plurality of practitioners and a plurality of insurance entities to determine the appropriateness of particular claims generated by the practitioners for payment by the insurance entities.

The patent to Hunt et al illustrates a computer software and processing medical billing record and information system consisting of hospital or individual doctor Medicare billing

records. The software contains at least one set of instructions for receiving, converting, sorting and storing input information from the preexisting medical billing records into a form suitable for processing. It is noted that this patent generally is directed to a situation to identify potential Medicare "72 hour billing rule" violations. It is submitted that the patent to Hunt et al does not anticipate or suggest a method and system in which a clearinghouse is established between medical practitioners and insurance entities. The computer software described in the Hunt et al patent is not directed to a situation for determining whether a single practitioner has submitted more than one treatment claim for a single treatment period of time or in which the appropriateness of each of the claims is based upon the total number of claim hours submitted by one of the practitioners for a particular duration of time.

The patent to Miller shows an automated posting of medical insurance claims system including scanner and optical character recognition technology combined with software for verifying the medical records. This patent does not anticipate or suggest the use of a clearinghouse provided between a plurality of medical practitioners and insurance entities to determine the appropriateness of a particular claim submitted by one of the practitioners.

The patent to Johnson et al details the automated processing of provider billings used for workman compensation and claims. This patent is directed to a situation in which the complexity of administrative rules determine maximum allowable benefits which is not possible utilizing manual processing of these claims. However, this patent does not anticipate or suggest the use of a clearinghouse to determine the appropriateness of claims submitted from one of a plurality of practitioners to one of a plurality of insurance entities.

The patent to Moore et al shows a method and system for processing healthcare electronic data transmissions utilizing a network connected to a claims clearinghouse unit. Although the patent to Moore et al shows a clearinghouse provided between

participating healthcare offices or facilities and a plurality of insurance companies or other payors, it does not anticipate or suggest a method or system in which the appropriateness of various claims submitted by a practitioner is determined.

The patent to Little et al describes a healthcare payment adjudication and review system provided with an expert system for reviewing a payment request based upon user-specified review criteria reflecting contractual arrangements between payors, providers and patients, current, locally acceptable medical practices and patient and provider payment request patterns. The patent does not anticipate or suggest the use of a clearinghouse for determining the appropriateness of claims submitted by a single practitioner to be paid by one of a plurality of insurance entities.

The patents to Barber et al, Boyer et al, Lockwood et al, Spurgeon and Tawil are all directed to medical insurance payment systems. It is submitted that none of these references either anticipate or suggest the use of a clearinghouse for determining the appropriateness of a particular claim submitted by a practitioner to one of a plurality of insurance entities.

It is believed that none of the references cited herein anticipate or suggest the system as recited in any of the independent or dependent claims.

Respectfully submitted,

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